



NIOSH Dose Reconstruction Project Rollout Meeting for the Lawrence Livermore National Laboratory Site Profile

Meeting Date:

March 21, 2006, 10:00 a.m.

Meeting with:

Building and Construction Trades Council of Alameda County, AFL-CIO, Oakland, California

Attendees:

Name	Organization
Barry Luboviski	Secretary-Treasurer, Building and Construction Trades Council of Alameda County
Ken Faria	Northern California District Council of Laborers
Gary Peifer	Bricklayers and Allied Crafts Local 3
Jim Rodriguez	International Union of Operating Engineers Local 3
Gene Hopkins	International Union of Painters and Allied Trades (IUPAT) District Council (DC) 16
Cliff Drescher	Carpenters Local 713
Ron Kessler	IUPAT District Council 16, Glaziers Local 169
Eddy Luna	Carpenters Local 713
David Nelson	International Brotherhood of Electrical Workers (IBEW) Local 595
Ellyn Moscovitz	Roofers
Stu Helfer	International Brotherhood of Teamsters Local 70
Ben Calcote	Hod Carriers Local 166
Rick Mangan	Sprinkler Fitters UA Local 483
Mel Breshears	Heat and Frost Insulators and Asbestos Workers Local 16
Robert M. Klein	Northern California Carpenters Regional Council
Al Roosma	Northern California Carpenters Regional Council, Carpenters Local 9068
Ruben Barba	Laborers' International Union of North America (LIUNA) Local 67
Chet Murphy	Operative Plasterers' and Cement Masons' International Association Local 300
Francisco Garcia	United Union of Roofers, Waterproofers and Allied Workers, Local 81
Wilbert Lucas	Laborers' (LIUNA) Local 304
Kevin VanBuskirk	Sheet Metal Workers Local 104
Rick Werner	Sheet Metal Workers Local 104
Leroy Diaz	Sheet Metal Workers Local 104
Andrew Slivka	Carpenters Local 713
Carl Jones	IUPAT DC 16, Painters Local 3
Doug Zeigler	United Union of Roofers, Waterproofers and Allied Workers International
Fran Schreiber	Kazan, McClain, Abrams, Fernandez, Lyons, Farrise, Greenwood
Robert M. Klein	Northern California Carpenters Regional Council
Elisa Rosetti	Boston University School of Public Health (BUSPH), Medical Surveillance Program
Buck Cameron	Center to Protect Workers' Rights

NIOSH and ORAU Team Representatives:

Grady Calhoun – National Institute for Occupational Safety and Health (NIOSH), Office of Compensation Analysis and Support (OCAS)

Paul Szalinski – Integrated Environmental Management, Inc. (IEM), Site Profile Team Leader

Vernon McDougall – Advanced Technologies and Laboratories International, Inc. (ATL)

Mark Lewis – ATL

Mary Elliott – ATL



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Proceedings

Mr. Barry Luboviski, Secretary-Treasurer of the Building and Construction Trades Council of Alameda County, opened the meeting at 10:00 a.m. Mr. Luboviski asked those present to introduce themselves and state their affiliations. *(Prior to the meeting, Mr. Luboviski informed the Worker Outreach Team that the Council was already familiar with the Energy Employees Occupational Illness Compensation Act (EEOICPA) and did not wish to hear a long presentation. He stated that they would permit a very limited overview of the program, after which members of the Council would voice their concerns and ask questions.)*

Mr. Luboviski introduced Mr. Buck Cameron of the Center to Protect Workers' Rights (CPWR). The CPWR is affiliated with the Building and Construction Trades Department, AFL-CIO, and is deeply involved in safety and health issues and programs for construction workers.

Mr. Cameron stated that EEOICPA is a federal program to provide compensation and, in some cases, to reimburse medical expenses for workers who develop cancer as a result of radiation exposure at nuclear weapons sites that were under contract with the U. S. Department of Energy (DOE) or its predecessors. He said that this meeting was an opportunity for Council members to speak directly to some of the people involved in making the decisions which determine who receives compensation under the program. Mr. Cameron introduced Vernon McDougall to give the presentation, describing his background in health and safety programs for both the Teamsters and the Carpenters. The Worker Outreach Team works with labor organizations to communicate with them about the EEOICPA compensation program.

Mr. McDougall stated that the purpose of the meeting was to get input from worker representatives about the Lawrence Livermore Site Profile, and to talk about how they and their members could provide input after the meeting. He explained that there were two parts of the compensation program, and that the outreach team was present only to talk about the radiation part of the program. He noted that a recording was being made to assist Ms. Elliott in producing an accurately documented record of the meeting. Their names would appear only in the list of meeting attendees, not to identify who made specific comments. Mr. Luboviski will receive draft minutes for review.

Mr. Luboviski stated that the Council members – as representatives of members of their unions who worked at the nuclear weapons facilities – preferred to be identified on the record so that their comments could be attributed. He asked members of the Council to sign in on the sheets being circulated.

Mr. McDougall reiterated that the representatives of the National Institute for Occupational Safety and Health (NIOSH) and its contractor team were only able to speak on the subject of radiation cancer claims. Other claims for toxic materials are handled by the U. S. Department of Labor (DOL) without involving NIOSH and its contractor team.

Mr. McDougall introduced the other members of the NIOSH team: Grady Calhoun, of NIOSH; Paul Szalinski, of Integrated Environmental Management, the current Site Profile Team Leader, who is responsible for making any revisions or clarifications to the Site Profile; Mary Elliott, who will produce the minutes; and Mark Lewis, a member of the United Steelworkers of America from the Portsmouth Gaseous Diffusion Plant, who works along with Mr. McDougall on the union outreach part of the program.



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Mr. McDougall began to explain the function of the Site Profile in the dose reconstruction process. Mr. Luboviski intervened, saying that he felt it would be more productive – considering the limited amount of time – to have members of the Council share their comments. He further stated that, while the Council understands that the NIOSH team does not make the policy, because of the considerable frustration of some of their union members who have filed claims, it is important to transmit to the policymakers some of the pitfalls of the program. Mr. Luboviski asked Ken Faria to share a recent experience.

Ken Faria, Northern California District Council of Laborers:

Two years ago, I was approached by the Department of Labor (DOL), and was told that they had \$6,000,000,000, and that they were worried about people being exposed to beryllium. They brought people from Washington, D. C., out here and put on a presentation for all eighteen of our local unions, primarily those who had worked at Lawrence Livermore on the Laser. We went back and forth on that. We even went to the Open House at the DOL Resource Center in Livermore where they were giving out information and encouraging people to file claims. This went through our Tri-Fund Safety Coordinator, who has all the information.

I happen to know several people who worked for (contractor name, not clear) out there for several years. One of them had a massive amount of kidney stones that he's had since he worked out there, but he didn't want to be tested. The other one had cancer at fifty-two years old.

The one who had cancer has since passed away, but had filed a claim. He went through a telephone interview with DOL, as well as an interview where they came to see him personally in June 2004 – after he was bedridden. They never got back to him on whether he was positive for beryllium. He died in October 2004. He didn't have a family history of cancer. He worked as a carpenter for seventeen years and was then diagnosed with cancer, which progressed from his colon to his lungs to his brain before he passed away. Maybe he wasn't exposed to beryllium—maybe this was his fate – but what really bugged me was that he had two children who were under twenty-one years of age. They never got back to him on whether he was positive for beryllium. There was no communication after they did the verbal interview.

I have a history of dealing with these people (DOL). They even wanted to rent office space in our building in Pleasanton. I'm not doing this for me – I cover contracts and everything else for the District Council of Laborers in Northern California. What I was trying to do is help the worker who becomes sick and doesn't know what to do once he has expended all of his benefits through the trust fund and has no way out – has thousands and thousands of dollars in medical bills. (*Name withheld*), who passed away, had to go to Medical Services through the county. He developed a lump on his neck, and because he was on medical assistance through the county, they would not remove that lump. The lump continued to get huge until he passed away. I tried to get him some medical help because he was at his limits with county assistance. He had worked with (*contractor, name not recognized*) for a year and six months at Building X.

My experience with that is that they (DOL) sell a good game. They say that they have plenty of money for our workers. They tell us that it's important for our workers, but when you produce someone who is on his deathbed, they never get back to you. Once the person dies, everything just kind of goes away. I happened to know the man and worked with him for years. He wasn't looking for help. I was the one who was pushing him to fill out the forms and call them on the



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phone and for the response back and forth because I was trying to get help for his family. When Barry called me today, I gave him a little history of what I had gone through dealing with the Feds on this – attending all their meetings, making sure all of our members were aware of the program. But yet, when it came right down to a person who was sick at a young age who I was trying to get him compensated – if they could prove that he did have beryllium exposure that caused his illness – they kind of just sat on their hands, I thought.

Barry Luboviski:

You told me the cancer that he had was consistent with beryllium exposure.

Ken Faria:

Yes, that was the first thing I asked them (DOL) when they did their presentation. “Could colon cancer be something that could be derived from exposure to beryllium?” They told me, “Yes.”

Barry Luboviski:

Are there any other comments from any of our members? Yes. Doug Zeigler is the International Representative with the Roofers.

Doug Zeigler, United Union of Roofers, Waterproofers and Allied Workers:

I just want to say, “Ditto.” (*Name withheld*) had a little girl who wasn’t even two years old. Once he died, no one wanted to talk to them. In essence it was all smoke and mirrors.

Barry Luboviski:

One of the things when they had hearings on setting up this program – and I would like to get a response back from the team, if you are able to do that – one of the things that we very clearly requested because the funding was there, was that some of the funding be dedicated to local people selected by the unions to do the interface to handle some of the opening fact finding that our workers – that people in this room represent – have to go through. It is a daunting task for most of these workers – some of whom are seriously ill and whose families are not familiar with the specifics – to go through to identify the buildings. I would like to know what has been done. It has been over a year ago, and it appeared that there was the opportunity for some funding for local people so that we could agree and retain some people to do some of the interface work. What has transpired with that? Who can answer that? If nobody can – and, again, we understand that you guys are the message bearers – then for the record, let me say that all of the unions have been clear from Day One that on a federal program, dealing with identifying a history and tying the work history in with cancers and other compensable diseases, as a result of their work at these weapons facilities, that what we felt very strongly that what we needed was someone who comes from our ranks, who is trusted by the workers, who would do the detailed follow-up with those workers to help them compile the necessary facts to be able to make their case. We again want to say that we are waiting to hear a response. We’ve heard no response on that, so again, I’m putting that out and we request that you take that back. Are there any other comments?

Ken Faria:

I know from people who work at Lawrence Lab that they are tested all the time for exposure to different types of radiation, and also to beryllium. Our workers go in to do a job there and then leave, so they are not getting tested as if they were full-time laboratory employees. They work there until a job is finished, and then they leave to work somewhere else. They go where there is work. If there could be some way that they could be tested without a charge to their own



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medical, or that didn't have to go through their union – that they could be tested almost like they did for years with asbestos. If they worked there three, or four, or five years ago on that laser, were exposed and were in those areas. In Building X, the Laborers were around that thing all the time, doing foundations, and Wilbur, who is an agent for Local 304 from Alameda, sent people in there all the time to work on the underground and the foundations. If beryllium is airborne, you could be exposed to it and not even know it. But the testing that we would want – and I know you guys aren't the Department of Labor because that is who I dealt with to try to get this thing going – if you could facilitate something where we could have our people go get tested without a charge to them because they worked out there, that would be interesting.

Barry Luboviski:

Ken, my understanding is that part of the program has changed.

Fran Schreiber:

Elisa Rosetti is with a program that is doing that type of medical surveillance. There are two things that we need to know for our members going to work out there. One is what they are being exposed to on the job, and I don't even know what kind of procedures the contractors have for badging for guys who are going in there and finding out what their current exposures are. The second thing is making sure that our guys who are going to work there have some kind of free medical check-up when they leave the job that doesn't have to come out of our Health and Welfare Fund. I'm not sure how Elisa's program works, but maybe we could give her a few minutes to say who they are willing to screen.

Barry Luboviski:

What we could do for this meeting – since it wasn't part of the design – is to hear some of the basic parameters, then plan for a follow-up meeting.

Elisa Rosetti:

Ms. Rosetti described her background as a retired firefighter with a Masters in Public Health and her role with the Energy Employees Medical Monitoring Program, a joint public health program between the Boston University School of Public Health and the Occupational Medical Department of University of California at San Francisco (UCSF). Funding from the program comes from a Congressional mandate that requires DOE to provide money to screen former workers at DOE facilities. The program does not cover current workers, but former workers are eligible if they have at least one year of cumulative work at DOE sites.

Fran Schreiber:

If a worker is not working there currently because he's on another construction job, but has worked there before, then he is a former worker?

Elisa Rosetti:

That is correct. We will be doing screening for Lawrence Livermore, Sandia, and Lawrence Berkeley National Laboratories. We are working with Lawrence Livermore to get the program up and running, and hope to begin screening workers by this summer.

Barry Luboviski:

We will set up another meeting where you can come into another Executive Board Meeting, where we can really do justice to the details necessary for that program.



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Elisa Rosetti:

This program has screened about 4,000 former workers from the Nevada Test Site. Part of the screening is for beryllium and we will probably do that here as well, including a number of other things, such as pulmonary function testing and chest X-rays. Doctors from UCSF will write letters if there are indications that there are exposures that may be related to their work. The diagnoses are not definitive and these former workers will still need to follow up with their own doctors. We will have a list of occupational doctors that people can be referred to for follow-up.

Gary Peifer, Vice Chairman, Bricklayers Union of Northern California:

I would like clarification on the point of this exit screening. What can I tell my workers when they go out there to work, once they come off that facility after they've been there for eighteen months, twenty-four months, three years? Are we going to have exit screening on everyone? What is the intent here? I have people who have been out there for years now that have been exposed and haven't been contacted by anyone on exit screening. We do that on the gold mine. It is mandated.

Elisa Rosetti:

Unfortunately, exit exams are something, typically, that the employer will do. We are not funded to do exit screenings, but we will start to do outreach as soon as we are ready to begin screenings. Any former worker will be eligible to come through the screening. We can't mandate that the Labs do exit screenings. That is not our role.

Grady Calhoun, NIOSH:

I worked at the Fernald site for years. When we had contractors that came in, sometimes they were given exit whole body counts or other bioassay analyses. Sometimes they were not. Our practice was that if it was requested, we would do it. I don't know if your members, upon exiting, asked the people at Lawrence Livermore to be tested. I don't know how that would be received, but it certainly would not hurt if you have your members ask for these analyses upon exiting the job.

Barry Luboviski:

I think all of us would much prefer to see a policy that is proactive rather than reactive. The problem with the reactive policy is that workers, generally, upon layoff are not thinking about that. It is not part of their frame of reference. The way that would happen is if, perhaps, there is a very intensive exit orientation about what their options are and the question is asked as a consequence of that, "Would you like an exit screening?"

Andy Slivka, Carpenters Local 713:

To follow up on the two workers who have passed away, if there is some way to facilitate those families getting some kind of response back, I think that would be a good step in finishing what happened in the past before we start taking steps to fix things in the future. If we're not getting follow up, I don't see where it is going to go.

Grady Calhoun:

Were these strictly beryllium cases?



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Barry Luboviski:

On behalf of the Council, as a show of good faith, we would like to hear back on the outcome of the cases of the two workers mentioned by Ken Faria of the District Council of Laborers, and the other case from Gary Peifer, of the Roofers International. We have three specific cases which, to our knowledge, were dropped completely. And we do understand that there is compensation that is available for the surviving family members. If these cases have been dropped, we would like to see a full explanation and review of all three cases. The Roofers and the District Council of Laborers will get you the specifics.

Grady Calhoun:

It is important for us to know if it is a Subtitle B or Subtitle E case. If it was a beryllium case, none of us here would ever see the case.

Ken Faria:

Actually, one of them refused the test. The one I'm interested in finding the outcome is the one who died from cancer. He went through all the orientations, the interviews, and did not hear what the outcome was before he died.

Grady Calhoun:

If it was a beryllium case, that would go through the DOL. NIOSH does not even see the beryllium cases. If that person worked at Livermore, they should file a Subtitle B claim for radiation-induced cancer.

Ken Faria:

For the benefit of the other agents here, the way the beryllium becomes airborne is when the machinists grind it. They had an air system there that could pull any of that out of the system. *Directs question to the Outreach Team:* For the beryllium compensation, do you have to work for a year or more? They told me that a thirty-second exposure can give you enough beryllium in your lungs to cause cancer. What doesn't make sense to me is why you have to be employed there for a year, if thirty seconds is all it takes for an exposure. I'm trying to get some kind of testing program for the employees. And Barry is exactly right – when a worker gets laid off, he's thinking about collecting his last paycheck and making sure all his tools are gathered up. He's not thinking about getting tested for exposure.

Barry Luboviski:

My understanding of what they said is that if workers are employed at the Lab, for the purpose of funding, they are expecting the Lab to do that testing. Once the worker is released from the Lab, then it is their venue. I think we have to look to the Lab for what our rights are while someone is working there to get tested.

Grady Calhoun:

NIOSH does not do radiation testing for this program.

Kevin VanBuskirk, Sheet Metal Workers Local 104:

We know that there is a problem that is proactive. Why aren't they testing people who are at these sites before they go in and screen them again when they come out? Why leave it on the employees' backs to ask if they could be tested. I didn't even know that they could ask at these sites to be tested when they leave. Whoever is responsible should put something in place for these workers to be screened both before they go in and when they come out.



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Vernon McDougall:

That is basically an occupational safety and health issue between you and the employer, and in this case, the employer is University of California, or whoever their subcontractor is out there.

Doug Zeigler:

My member was working for an Alaska Native corporation subcontracted to Berkeley Lab and didn't realize he was a Berkeley employee to begin with. He was working on roofs and sweeping up whatever was laying up there.

Al Roosma, Northern California Carpenters Regional Council, Carpenters Local 906:

I just want to make a comment from the worker's standpoint. We're finding more situations where the workers are drug tested before they go to work, sometimes periodically if there is an accident during the course of that work. The companies take that as a cost of doing business. If they can do that, why are we arguing about who is going to pay for the health and safety of this worker on the way out? Surely, if they can test for one reason to hold the worker accountable, they can test for the other as a means for holding the contractor or the end user accountable.

Leroy Diaz, Sheet Metal Workers Local 104:

All of this information should be given to our trust funds that are handling the people with the problems. If we are looking at the people who worked at the Lab that have cancer – when a cancer case comes along – put it on the trust funds so they can go after the Lab. If there is money available to get compensation for these guys, that is the place to go. We're all agents. I've been an agent for twenty years. Half the guys in my local who have cancer, I don't know about – but they (the trust funds) know about it. This information should be given to every one of our trust funds that are handling the cases. The trustees can flag these guys – look at their records and say, "If we file on this, it can save the plan money." We don't necessarily know who has cancer, but the trustees know everybody who has cancer.

Vernon McDougall:

You are exactly right. The people in the trust funds could help the sick workers fill out the claims forms. It would be a great service for your sick members.

Buck Cameron, CPWR:

I didn't hear anybody pick up on who is going to follow up on the three people who were mentioned earlier.

Barry Luboviski:

Who is going to be responsible from your group for the initial follow up?

Grady Calhoun:

I can contact DOL.

Barry Luboviski:

We understand that it may not fall within your direct responsibility, but if you can assist with this and pass it on so it will at least be addressed.

Vernon McDougall:

If you can get me the information, I can work with you on that.



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Barry Luboviski:

Doug Zeigler and Ken Faria will give you their cards, and can help you get the information you need.

Fran Schreiber:

We are skirting around some very important issues. I think that getting the trust funds involved in this is a key element. Part of the very long report these folks are here to talk about is a very detailed report on all the buildings that were out there at the site. We can look at this report and see where our members worked and what kind of radiation that they might have been exposed to in those buildings. That is good stuff, and that is going to be – at least for those of us looking on behalf of our members – something we can look to. The thing that I was troubled by, and that I want to raise on behalf of all of the members of this Council, is that I had a problem trying to figure out how this long report helps the dose reconstructor. Let's say that the trust fund fills out a claim form for one of our guys with cancer. That is going to trigger an investigation on the part of the dose reconstructor, and he or she is going to look to see if the worker ever wore a badge to monitor for radiation and ask for the information from the Department of Energy. I don't even know whether our guys who are going in there with contractors even have that stuff on them. I have no idea, and I don't know whether you know either. In any event, the material in this wonderful report doesn't help us one bit with that. I'm wondering how this can even help a dose reconstructor construct a dose for the Building Trades because they did different work out there. The work that is described in this report is terrific for the people who work there every day, not Building Trades. We had this discussion a year and a half ago, and the focus of that discussion was that we should be a Special Exposure Cohort. We should be separated out because we are not helped by this great report. We can't get anywhere, so we need to apply to be treated specially, so that our members will have a better chance. If we get designated as a Special Exposure Cohort, our members will have a better chance to get some kind of recovery, because the restrictions are not quite as "tight." I don't see what we need as Building Trades workers, and I would like to have a response from these folks as to what they think is in this report that really does address our particular work.

Barry Luboviski:

Will you be taking this back, and to whom will you taking back the request on behalf of this Council with regard to Special Exposure Cohort?

Grady Calhoun:

To address how the Site Profile can help: I have done dose reconstructions, so I have a pretty good idea of how this would work. There are dosimetry records out there for contractors. Certainly not for all of them, but we have seen some that have been provided by DOE. Everyone who files a claim that is verified by the DOL is interviewed by telephone, whether it is the worker or the survivor or whomever. One of the helpful things that the worker can tell us is where they worked, and the Site Profile may help us narrow down what kind of radiation exposure was there. If I have a fairly good record provided by DOE for internal and external dosimetry, I can use that. The Site Profile will tell me the limitations of that dosimetry. I don't know how many of you have been monitored at that facility, or any other facility, but a lot of times you come back with "zeros" on your badges. When we get those, we don't treat them as zero readings because we know there was some limit of detection for that instrumentation.



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Fran Schreiber:

But that wouldn't be for construction workers, only for the employees of the lab.

Grady Calhoun:

It is for anyone who was badged – a zero is a zero. It is the technology of whatever type of badge that was used. The Site Profile has the history of the type of instrumentation that was used and the limits of detection – let's say 20 millirem. Even though the dose records may say "0," a dose will be assigned based on those limits of detection.

Fran Schreiber:

But your dose records are not in this report, so when we talked to the people who were about ready to write this report a year and a half ago, we said that if our guys don't have dose records – and you are saying that there are some contractor records, we don't have that information. We have asked for there to be a collective dose – not with individual identifiers, obviously. If you have that information, where are the numbers? That is what would be useful to us. If this report were to be useful to us, it would say, for example "In Building X, from January 1957 to January 1959, there were contractor records." That would be useful, and those contractor records show that any guy working from a laborer's point of view or a carpenter's point of view had gotten dose in such and such an amount. That would be useful. That is not in this report.

Grady Calhoun:

One way that we have been dealing with that at other sites – and I don't have the extent of the data that we have now – is that we establish co-worker profiles if we can find that body of evidence for people who are claimants or people who aren't claimants.

Fran Schreiber:

We asked for that.

Grady Calhoun:

NIOSH wouldn't have that information. Did you ask for that from DOE?

Fran Schreiber:

We asked for that when they were out here a year and a half ago.

Comment (unidentified attendee):

They did the hearings.

Buck Cameron:

Was that with DOE?

Barry Luboviski:

Was it a DOE or DOL hearing?

Fran Schreiber:

We specifically asked for that. We asked for it at the hearings, too. We testified at an Advisory Board Meeting, and we also met with folks from DOE, NIOSH, and the contractors.

Grady Calhoun:

DOE is the only one who can provide you with that information.



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Fran Schreiber:

They never did. You asked us if we could help. We said, “We don’t have a clue, and we don’t have the money to figure this out. Go do your Site Profile, but make sure you find out what people’s exposures were and collectively chuck that into the report, because that will give us some information.” It’s not there. I don’t know who else we are supposed to talk to besides the people who came to tell us that they were going to do this.

Grady Calhoun:

We do request that for every individual who is a claimant.

Fran Schreiber:

But then we are back to this laborious process of trying to go through all of our trust funds, looking back and trying to remember everybody who has gotten cancer, and then trying to cross reference that with everybody who has ever worked at the lab.

Grady Calhoun:

If we get that information back, it shouldn’t be that big of a deal.

Fran Schreiber:

Why can’t we just get the information? You have already said that you’ve got dose records. Why can’t we get those records?

Barry Luboviski:

We are advocates for our membership. It is very difficult to be an advocate for a family and a worker who is dying if we don’t have the information to go forward. They talk about big business and big labor. Big labor, in the terms of the amount of dollars we have is a myth. The money that workers put into assist in their representation should not cover the need to hire a special ombudsperson selected by labor that can work with the families and work with the unions to assist in coordinating this kind of program, as Leroy said, through our trust funds. We don’t have that. Getting funding which we asked for, getting a special recognition of the uniqueness of construction workers and their relationship to the job site – they don’t report to an office. I think probably the most important thing – the reason for the cynicism that I expressed earlier – is that we were very hopeful when we began this process with the hearings a year and a half ago. We are still seeing some of the same problems and issues just not addressed. We would like to get some answers. They’ve got the money and they want to use it for some real cases. I think that there are some things that we can do to help change that. Leroy has a very good idea...

Fran Schreiber:

If we apply for a Special Exposure Cohort, would you be obligated then to look at the contractor doses and get that information?

Grady Calhoun:

When you file a Special Exposure Cohort petition, we go through the records of individuals and what they did at the site. Ultimately, NIOSH makes the determination on whether or not dose reconstruction can be done. The answer to that question is whether or not a cap can be put on the upper dose that a worker is likely to have received at that facility during this time for whatever class you propose. If NIOSH reports to the Advisory Board that dose reconstructions can be done for the petition class, they have to vote on it and make a recommendation to the Secretary of



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Health and Human Services (HHS). The Secretary in turn, makes a recommendation to Congress, who can choose to act or not act on it. The final determination is then made by the Congress. If congress does not act, the recommendation stands. If NIOSH says that they can't do dose reconstructions, the same process is followed, and whatever that class is becomes part of the Special Exposure Cohort, and the covered cancers are automatically compensated.

Fran Schreiber:

Do you honestly think with the limited amount of data that you have that you can do dose reconstructions?

Grady Calhoun:

Yes, I think we can. I can't make that case across the board, because I haven't looked at the data myself, but we have completed cases from LLNL.

Fran Schreiber:

That is what I'm asking on behalf of construction workers.

Grady Calhoun:

I don't know that. It depends on how much dosimetry data we have. I haven't seen it all, so I can't just tell you yes or no. The answer to your question is "Yes, NIOSH has to review that data to make a determination. Until it is reviewed, the determination cannot be made."

Fran Schreiber:

So if the only way to get that data is for us to file this petition, then I think that is what we need to do.

Grady Calhoun:

That is not a request for you to get that data. It is a request for us to review it.

Fran Schreiber:

I know. We're going to file the petition and see if maybe we can get some help for our members that way.

Barry Luboviski (*addressing the Council*):

I think we are going to need to meet briefly among ourselves on this, because obviously, we are going to need some follow-up. Has everybody signed the sign-up sheet? *Addressing the Outreach Team*: Unless someone feels that we should continue, I would like to say that I really appreciate your coming. I don't think that this has been a wasted exercise at all. We have had the opportunity to express our concerns. I think that we can expect to see some follow-up to this. In terms of how we proceed, Leroy's idea for how we can utilize the trust funds will be helpful. We have several District Council representatives and craft representatives here, so how should we proceed with setting up a follow-up meeting if we want one – through Buck Cameron?

Buck Cameron:

Yes, you could do that through me.

Grady Calhoun:

I would like to say just one more thing. I would like to clue everyone in to the application process on Subtitle E. There is some confusion about who can file for what. If you have any illness at all, file for Subtitle E – and everybody should do that. If you have cancer or beryllium



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disease, you should file for Subtitle B. You are allowed to file for both, and you should. If you have cancer, you should file for both parts. You should work through the DOL with that. Some think that if you file a claim for one Subtitle, a claim for the other will be filed automatically. That is not the case. You have to file for both.

Barry Luboviski:

We need to have more practical discussion on that. You have heard us loud and clear on our request for funding for one of our folks to have that dialogue. I would also suggest that, organizationally, any time somebody comes to you with a request to file, that would automatically be part of the procedure.

Grady Calhoun:

But they don't come to us, they come to DOL. We never get the case until it goes through the verification process with DOL. We may never see the claim if it isn't verified.

Barry Luboviski:

Then there might be no resolve for that, because I don't think that DOL is going to come through the door in the same collaborative way.

Jim Rodriguez, International Union of Operating Engineers Local 3:

Do we have anything in this packet that tells if we go through DOL or DOE? Who came up with the requirement for the one year term of employment?

Vernon McDougall:

There is some information that tells the different paths for the two subtitles. Congress made that requirement as part of the Act.

Barry Luboviski:

I think that different unions will respond differently. But the purpose today was not to answer all the questions, but to open the door, make the contact and realize that individual unions or district councils can do the follow-up to get the right detail when they have the right people in the room to do it.

Question (unidentified attendee):

How far back does the compensation cover? Does it cover the guy who worked there in the 1960s and 1970s? How far back does it go?

Vernon McDougall:

It covers back to 1952 when the Lab began operations.

Barry Luboviski:

On behalf of the Council, thank you all for coming, for bringing the material. I think this will lead to additional follow-up.

Mr. McDougall thanked the Council on behalf of the Worker Outreach team. The team departed the Council meeting at approximately 11:00 a.m.